

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**FREDERICK H. WING**

Claimant

VS.

**EATON CORPORATION**

Respondent

Self Insured

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Docket No. 233,283

**ORDER**

Respondent appeals from the Award entered by Administrative Law Judge Bruce E. Moore on May 25, 1999.

**APPEARANCES**

Scott J. Mann of Hutchinson, Kansas, appeared on behalf of claimant. Edward D. Heath, Jr., of Wichita, Kansas, appeared on behalf of respondent.

**RECORD AND STIPULATIONS**

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

**ISSUES**

On January 2, 1998, claimant aggravated a pre-existing low-back condition when he slipped in a puddle of water at work. Averaging the 5 percent functional impairment rating given by Dr. William O. Reed, Jr., with the 20 percent opinion by Dr. Pedro A. Murati, the ALJ awarded claimant a 12.5 percent permanent partial general disability. The ALJ also ordered respondent to pay claimant \$101.54 in per diem and mileage expenses. Although it did not submit a brief, respondent apparently believes the opinion by Dr. Reed should be adopted. Whereas claimant contends the rating by Dr. Murati is the more credible opinion testimony. The nature and extent of claimant's disability and whether claimant is entitled to per diem expenses were the only issues raised in respondent's application for review.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the briefs, the Appeals Board finds the award by the ALJ should be affirmed. The Board does so for the reasons stated in the findings and conclusions expressed in the Award by the ALJ. The Board hereby approves those findings and conclusions and adopts them as its own.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Bruce E. Moore dated May 25, 1999, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1999.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Scott J. Mann, Hutchinson, KS  
Edward D. Heath, Jr., Wichita, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director